



THE WATCHDOG

A Periodic Newsletter from the Office of the United States Trustee
Region 16 - Central District of California
June 2007 - Issue No. 18



INSIDE:

Criminal Actions: Operation Truth or Consequences
To Refer or Not: That is the Question
EOUST Director Visits LA
and a Message from the United States Trustee

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Important Links:



www.usdoj.gov/ust/r16/

provides a wealth of information on Region 16.

There's a page devoted to each of the field offices; Los Angeles, Riverside, Santa Ana, Woodland Hills and its Santa Barbara satellite office. You can find maps to the office and meeting rooms, parking information, and a staff directory with phone numbers. Find out about a variety of topics like "Brown Bag" training, local forms and references, how to submit criminal complaints fraud and report identity theft, public notices and local policies. A quick click on the "What's New" link will show you what documents have been added or updated.

You can use the "Email Us" link to create an email addressed to us. Email us with questions or comments about the web page, or with questions about bankruptcy topics. Please do not submit a complaint or fraud complaint this way - follow the instructions on the "Complaints" page. Always keep in mind that we cannot provide legal advice.

www.cacb.uscourts.gov/ will link you directly with the U.S. Bankruptcy Court - Central District of California .

Visit the U.S. Trustee Program's website, www.usdoj.gov/ust/. It's loaded with information on the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) of 2005

For information on:

- Means Testing forms and IRS standards
- Credit Counseling & Debtor Education
- State Domestic Support Enforcement Agencies
- Data Enabled Form Standard,

You can also find:

- Annual Reports
- Bankruptcy Articles
- Bankruptcy Statistics
- Outreach
- Press Releases
- Testimony & Statements

Questions for Region 16 can be directed to:

www.ustp.region16@usdoj.gov

Please contact us with suggestions and topics. To make sure you are included in our "subscriber" data base, please e-mail your address to the address above and put "WATCHDOG" in your subject line.



A Message from United States Trustee Peter C. Anderson



This is the first issue of the Watchdog, since I was appointed as the United States Trustee for Region 16 on August 6, 2006. I am thankful to Steven J. Katzman, the United States Trustee for Region 15 and my predecessor, for his outstanding work as United States Trustee for this Region and for the personal kindness and tremendous support he has given to me since the beginning of my application process.

When I was first appointed, I stated that it was my goal to make the new bankruptcy reform law work as intended by Congress for the benefits of debtors, creditors, and the public. In the past months, much has occurred to further that goal. Local Rule and Motion Form changes have been proposed to ease case administration. The structure of all of the United States Trustee Offices in the Region has been reviewed. The status of all aged cases (those over 3 years since filing) have been reviewed. The implementation of Debtor Audits has taken place. The Bankruptcy Fraud Working Group has been re-instituted.

All of the United States Trustee Offices in this Region participated in a review of all open aged cases. In particular, Trustees were asked to complete questionnaires, and then employee teams conducted field audits and held meetings with Trustees to speed case closure. As a result, the number of aged cases in this Region has been reduced by more than one-third.

Our Offices have worked with Trustees concerning the implementation of BAPCPA, and

a training session took place in April. One of the changes is the audit of Bankruptcy Schedules and Statements of Affairs for material misstatements. About 1000 audits have taken place throughout the country and material misstatements have been reported in about 10% of the cases. Our Offices have worked to take action based upon such findings.

Of particular importance to me, was the renewed work of the Bankruptcy Fraud Working Group in this Region. This would not have occurred but for the work of Sandy Klein, our Bankruptcy Fraud Criminal Coordinator, and the enthusiastic participation of the United States Postal Service, the Social Security Administration, the Federal Bureau of Investigation, the Internal Revenue Service, the Securities and Exchange Commission, and the United States Attorney. This work is vital to the continued protection of everyone involved in the bankruptcy process.

In the calendar year 2006, the Chapter 7 Trustees in this Region distributed almost \$158,000,000 to creditors. Although this was a 4 % reduction in gross distributions, the Chapter 7 Trustees still paid over \$32,000,000 to unsecured creditors which was an increase of almost \$9,000,000 from 2005 and a percentage increase from 14.3% to 20.5%. At the same time, the percentage paid for administrative expenses fell from 9.8% to 8.5%. Additionally, means testing has made the identification of ineligible debtors simpler with standards that are more concrete, objective, and transparent. I expect the good work that has been begun to continue and I look forward to reporting such good results in coming issues.

Peter C. Anderson
United States Trustee

Central District
Case Filing Information

Chapter 7

January	544
February	700
March	1,065
April	1,091
May	1,243
June	1,258
July	1,194
August	1,401
September	1,396
October	1,456
November	1,422
December	1,508
January	1,605

Chapter 11

January	22
February	15
March	29
April	22
May	21
June	27
July	18
August	21
September	11
October	17
November	27
December	11
January	16

Chapter 13

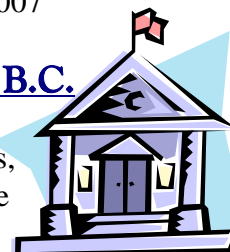
January	175
February	182
March	208
April	197
May	254
June	236
July	266
August	342
September	316

October	387
November	347
December	416
January	499

Source: U.S. Bankruptcy Court In-House
Statistical Report as of January 2007

Report from the U.S. B.C.

by L. Charmayne Mills,
Assistant U.S. Trustee



According to the latest **Report From The AOC** or more commonly known as the Administrative Office of the Courts, The Judicial Conference of the Bankruptcy System is considering a request from the Executive Office for the United States Trustees (EOUST) that debtors be required to use data-enabled forms to file official bankruptcy petitions and schedules. Data-enabled forms are electronic or PDF versions of the official forms in which all information included is tagged. This makes it easier to extract the information and feed it into a database for automated reporting. The Bankruptcy Abuse Prevention and Consumer Protection Act of 2005(BAPCPA) requires the Courts and the United States Trustee to collect and process much of the data contained in the debtor's petition, schedules, as well as the information required for Means Testing. Specifically, BAPCPA section 601 requires the courts to report consumer statistics such as the debtor's total assets, liabilities, income, expenses, and reaffirmation agreements. Section 601 requires the U.S. Trustee program to report information on assets, receipts, and disbursements from the debtor's estate, expenses of administration, disposition of claims, and distributions to claimants. The EOUST is a proponent of the development and implementation of data-enabled forms as the most efficient way to collect the

information required to fulfill our new obligations under BAPCPA. A formal proposal has been submitted to the Bankruptcy Committee and the Committee on Court Administration and Case Management. This proposal is now under serious review.

Trustee Profile

by Jason Rund



The Office of the United States Trustee has asked me to share my background for this issue of the Watchdog. Serving as a chapter 7 trustee requires a broad background beyond the required knowledge of bankruptcy law. The Trustee must also possess skills in a number of other areas in order to investigate/identify assets and efficiently administer the bankruptcy estates. I can trace my path to becoming a bankruptcy trustee to work experiences starting when I was 17. While in high school, I became interested in real estate which led to an internship at a residential real estate brokerage where I was exposed to a lot of fascinating information regarding evaluating real estate and marketing property. This was also my first exposure to purchase agreements which of course I later learned was a lot more complex of a subject than the two page

agreement used at the time. Immediately after my 18th birthday, I obtained my real estate salesperson's license passing the examination on my first attempt.

1982 was not a very good time to start a career selling real estate. The prime rate was still over 16%. I joined Wagner Jacobson Brokerage which at the time was one of the leading brokerages in Los Angeles specializing residential income properties. I received terrific training and learned a lot about finance and investment analysis. I was also exposed to real estate attorneys and became interested in their role in the transaction process. I obtained a lot of listings but actually selling the properties was difficult because of the economic circumstances. Fortunately, I managed to sell several buildings and received an achievement award from the company for my results. These early experiences started my interest in real estate investing, management and development which continue today.

While continuing my interest in real estate, I also started working in the retail clothing business and served as a general manager for a small chain. During this time, I learned about inventory, financial and personnel management. I also started a clothing store which I successfully sold a short time later. This was my first time as a creditor in a bankruptcy case because one of the purchasers filed chapter 7. For the first time, I learned the term "no asset case." Things did not turn out too bad which I attribute to the attorney who handled the sale.

After I sold the business, I returned to real estate at a brokerage and served as the office manager where I had a broad range of responsibilities both from an operations and marketing standpoint. One of the partners in the brokerage was an attorney and

investor/developer and I learned from him how law and business work together. During this time, I also obtained a real estate brokers license which is still active.

I was working in real estate when I decided to attend law school initially as a part time student at Western State University College of Law in Fullerton. After my first year, I decided to attend full time and graduated in three years finishing second in my class. I served as an associate editor and technical editor on the law review. During law school, I also served an externship at the California Court of Appeal in Santa Ana.

I worked at a small law firm for a couple of years where but I really wanted to combine my real estate and business experience together with being an attorney. In 1996, I started a law firm called Sheridan & Rund which handles both transactional and litigation matters for individuals and small businesses. At the same time, I have remained involved in several aspects of real estate. In 2003, I was appointed as panel trustee which allows me to combine in a very meaningful way my experiences in business, real estate and the law.

I have a terrific wife and we are the proud parents of two kids ages five and seven. My spare time is devoted to participating in family and school activities and planning our family vacations which allow me to “get away.”

New U.S. Trustee Hosts Appointment Celebration

On October 4, 2006, U.S. Trustee Peter Anderson hosted a reception for trustees, judges, colleagues and family to celebrate his August 6, 2006, appointment as United States Trustee for the Central District of California. Guests included U.S. Trustee Steven Katzman

and former U.S. Trustee, the Honorable Maureen A. Tighe. All of the guests had an opportunity to meet with U.S. Trustee and his staff, and tour the offices.

U.S. Trustee Anderson has many years of experience as a commercial and bankruptcy law practitioner, including serving 14 years as a Chapter 7 panel trustee. He received his law degree from Loyola Law School in 1982 and his undergraduate degree from the University of Southern California in 1979. He is also certified as a bankruptcy law specialist.



Mr. & Mrs. Peter C. Anderson





To Refer, or Not to Refer: That Is the Question

by Sandra R. Klein, Bankruptcy
Fraud Coordinator*



I am a Bankruptcy Fraud Criminal Coordinator for the United States Trustee Program (USTP or Program), and I assist with bankruptcy fraud referrals, investigations, and prosecutions in Regions 14, 15 and 16. Whenever I speak about bankruptcy fraud, I am asked the following question: why should I bother making a criminal referral if bankruptcy fraud cases are not prosecuted?

First, the USTP, judges, and trustees have statutory duties to refer possible crimes to the United States Attorney's Office (USAO). Their referrals are essential to maintain and protect the integrity of the bankruptcy system. Although non-Program lawyers do not have an explicit statutory duty to refer possible crimes to the USAO, their referrals are invaluable to the USTP's and USAO's efforts to combat fraud and abuse in the bankruptcy system.

Second, a number of bankruptcy fraud cases are prosecuted across the country each week. In fact, in October 2006, the Deputy Attorney General announced that within a two-month period, charges had been filed against 78 individuals nationwide as part of "Operation Truth or Consequences." A copy of the Press announcing Operation Truth or Consequences is included in this issue of the Watchdog. Operation Truth or Consequences highlights the importance of the bench, the bar, the USTP and trustees making criminal referrals to help maintain and protect the integrity of the bankruptcy system.

(continued on next page)

Statutory duties to refer cases to USAOs

Congress has recognized the importance of referring, investigating, and prosecuting bankruptcy-related crimes by enacting 28 U.S.C. § 586 and 18 U.S.C. § 3057. These statutes require the USTP as well as judges and trustees to refer possible crimes to the USAOs.

United States Trustee Program

Title 28, United States Code, Section 586(a)(3)(F) requires each United States Trustee to notify the United States Attorney of “matters which relate to the occurrence of any action which may constitute a crime” and, if requested, to assist the United States Attorney in “carrying out prosecutions based on such action.” Pursuant to § 586, the USTP’s duty to refer cases to the USAOs is not limited to bankruptcy crimes. Further, as the language of the statute makes clear, Congress did not intend the USTP to refer only cases that it believes will be prosecuted, that meet a certain dollar threshold, or for which there is evidence demonstrating guilt beyond a reasonable doubt. Instead, Congress has mandated that the Program refer matters to the USAOs whenever there is evidence of any action that may constitute a crime.

Bankruptcy Judges and Trustees

In addition to the USTP’s duty to refer possible criminal conduct for prosecution, bankruptcy judges and trustees have statutory duties to refer cases to the USAOs. Pursuant to 18 U.S.C. § 3057, bankruptcy judges and trustees who have reasonable grounds to believe that a crime has been committed or that an investigation “should be had,” must report the facts and the names of all potential witnesses to the USAO. 18 U.S.C. § 3057(a).

Lawyers

Non-Program lawyers do not have an explicit statutory duty to refer possible crimes to the USAO. Bankruptcy practitioners, however, often learn of potential criminal conduct earlier than other participants in the bankruptcy system. Further, as officers of the court, bankruptcy practitioners have a unique understanding of the importance of maintaining and protecting the integrity of the bankruptcy system. Thus, if lawyers become aware of possible criminal conduct in or related to a bankruptcy case, they may want to consider referring the matter to the USTP or USAO. Such referrals are invaluable to the USTP’s and USAO’s efforts to combat fraud and abuse in the bankruptcy system.

United States Trustee Program’s Criminal Enforcement Unit

In 2003 the Executive Office for United States Trustees (EOUST) established a Criminal Enforcement Unit (CREU), which consists of experienced former federal prosecutors. CREU’s mission includes working with Program staff to identify and refer possible criminal conduct and to assist federal law enforcement agencies and USAOs with bankruptcy-related investigations and prosecutions.

Operation Truth or Consequences

In October 2006, Deputy Attorney General Paul J. McNulty highlighted the USTP’s criminal enforcement efforts when he announced that criminal charges had been filed against 78 individuals in 69 separate prosecutions in 36 judicial districts on a variety of bankruptcy fraud and related counts. That announcement was the culmination of Operation Truth or Consequences, a nationwide sweep that demonstrated the breadth of the enforcement actions taken by the

Department of Justice to combat bankruptcy fraud and to protect the integrity of the bankruptcy system. Operation Truth or Consequences collectively involved charges filed during a two-month period against nine attorneys, two bankruptcy petition preparers, and a former law enforcement officer; alleged concealment of more than \$3 million in assets; the use of false identities and false Social Security numbers; submission of forged documents and use of false statements; defrauding of individuals whose homes were in foreclosure; fraudulent receipt of government loans and benefits; and various other unlawful acts.

Conclusion

The USTP, judges, and trustees have statutory duties to refer possible crimes to the United States Attorney's Office. Although attorneys do not have an explicit duty to refer cases, as officers of the court, they play an important role in protecting the integrity of the bankruptcy system.

As a member of the USTP's CREU, I am available to discuss criminal issues and potential referrals with judges, trustees, lawyers and USTP employees. As demonstrated by Operation Truth or Consequences, CREU has made significant progress in furthering the USTP's criminal enforcement efforts. With your help, we can build on the success of Operation Truth or Consequence and continue working together to maintain and protect the integrity of the bankruptcy system.

** Ms. Klein may be reached by email at sandy.klein@usdoj.gov or by telephone at (213)894-7244.*

Criminal Enforcement News

The following is a press release issued by the Department of Justice on October 18, 2006:

Operation Truth or Consequences Targets Bankruptcy Fraud Across the Country; U.S. Trustees Announce Bankruptcy Fraud Hotline

WASHINGTON – United States Attorneys have filed criminal charges against 78 individuals in 69 separate prosecutions in 36 judicial districts on a variety of federal bankruptcy fraud and related counts, including 18 cases charged Tuesday, Deputy Attorney General Paul J. McNulty, announced today. The announcement is the culmination of "Operation Truth or Consequences," a nationwide sweep that demonstrates the breadth of enforcement actions taken by the Department of Justice to combat bankruptcy fraud and protect the integrity of the bankruptcy system.

Also announced was the creation of a new Internet hotline for reporting suspected bankruptcy fraud to the U.S. Trustee Program, the Department of Justice component that promotes and protects the integrity of the bankruptcy system. Members of the public can now report suspected bankruptcy fraud via email to USTP.Bankruptcy.Fraud@usdoj.gov.

"Today we send a clear message to those who abuse, for their own criminal financial gain, the bankruptcy system's promise of a fresh start to honest Americans," said Deputy Attorney General McNulty. "A bankruptcy filing is often the last step of a series of criminal acts, including mortgage fraud, bank fraud, mail fraud, money laundering, and government program fraud. Bankruptcy fraud is often the tip of the criminal iceberg, and that makes these prosecutions so important."

Collectively, the Operation Truth or Consequences bankruptcy fraud sweep includes charges filed against nine attorneys, two bankruptcy petition preparers, and one former law enforcement officer; alleged concealment of more than \$3 million in assets; use of false Social Security numbers and false identities; submission of forged documents and use of false statements; defrauding of individuals whose homes were in foreclosure; fraudulent receipt of government loans and benefits; and various other unlawful acts.

"Bankruptcy fraud must not be tolerated, if our bankruptcy system is to serve its purpose of helping the honest debtor in need of financial relief," said Clifford White, Acting Director of the Executive Office of U.S. Trustees. "Operation Truth or Consequences highlights the commitment of the Department of Justice and our law enforcement partners to vigorously investigate and prosecute bankruptcy fraud wherever it occurs."

"Today's operation is a comprehensive, nationwide sweep that highlights the scope of bankruptcy fraud and the negative impact on the economy," said Chip Burrus, FBI Assistant Director for the Criminal Investigative Division. "Through our collaborative efforts with law enforcement, the FBI remains dedicated to pursuing those individuals who attempt to use our Nation's bankruptcy system to further their criminal intents."

Operation Truth or Consequences is a joint criminal enforcement effort by the U.S. Attorneys' Offices, U.S. Trustee Program, FBI, Department of Housing and Urban Development Office of Inspector General, Social Security Administration Office of Inspector General, U.S. Postal Inspection Service, Internal Revenue Service Criminal Investigation, and U.S. Secret Service. The charges contained in an indictment, information or criminal complaint are merely

allegations, and the defendant is presumed innocent unless and until proven guilty beyond a reasonable doubt.

The following is a press release issued by the United States Attorney's Office for the Central District of California on March 2, 2007:

**Attorney for Company that Ran Foreign
Currency Scam Pleads Guilty To Lying To
Investor, Court & Regulators**

Los Angeles, CA - The attorney for a commodities futures trading firm that defrauded hundreds of investors out of more than \$95 million has pleaded guilty to conspiring with one of the scam's principals to defraud an investment victim, as well as to lying to investment industry regulators and a state court.

Michael Arthur Cardenas, a 47-year-old attorney who lives in the San Fernando Valley district of Winnetka, pleaded guilty Thursday afternoon. Appearing in United States District Court in Los Angeles, Cardenas admitted his guilt to conspiracy, bankruptcy fraud and tax evasion.

The conspiracy count involves Cardenas' role as attorney for Midland Euro, a Sherman Oaks foreign exchange currency trading operation that fraudulently raised more than \$130 million from investors located in the United States, Canada, Saudi Arabia and Israel in less than five years. Through mismanagement and misappropriation, investors lost nearly \$100 million.

One victim, the Qatar-based Al Baraka International Investment Company Ltd., sued Midland Euro after the National Futures Association began investigating Midland Euro and after Midland Euro was unable to return funds invested by Al Baraka. In court yesterday, Cardenas admitted participating in

Midland Euro's scheme to deceive Al Baraka. Cardenas admitted that he lied to the NFA, the State Court overseeing the Al Baraka lawsuit, Al Baraka and Al Baraka's lawyer in order to conceal Midland Euro's misappropriation of Al Baraka's investments. In a plea agreement, Cardenas admitted that he repeatedly and falsely stated that Al Baraka's funds "were safe" in Cardenas' attorney-client trust fund, when, in fact, Cardenas moved money out of the attorney-client trust account, giving money to himself and to a Midland Euro principal, even though a State Court judge had ordered the account frozen.

"The Midland Euro case victimized hundreds of investors who lost millions of dollars," said J. Stephen Tidwell, Assistant Director in Charge of the FBI in Los Angeles. "The guilty pleas by Cardenas and the previous fraud convictions are examples of the FBI's hard work and continued pledge to investigate fraud, particularly by those in positions of power who are thereby most accountable."

Ron Hirst, the NFA's Associate General Counsel and Enforcement Coordinator, stated: "As the self-regulatory organization for the commodity futures industry, the National Futures Association depends on the cooperation and truthfulness of its members and their attorneys to carry out its investigative function. Mr. Cardenas repeatedly lied to the NFA in the course of our investigation into Midland-Euro, and this case sends a strong message that lying to the NFA is a serious offense with severe consequences."

Cardenas, who for a time maintained a bankruptcy law practice, also pleaded guilty to lying to the Bankruptcy Court and the United States Trustee in relation to a bankruptcy petition he filed on October 14, 2005. Cardenas failed to disclose assets and repeatedly lied to the court about his income.

"Concealing assets and making false statements in bankruptcy cases are serious crimes that undermine the integrity of the bankruptcy system," stated Peter C. Anderson, United States Trustee for Central California (Region 16). "The charges filed in this case demonstrate that such conduct will not be tolerated and will be aggressively pursued."

Cardenas also pleaded guilty to tax evasion, admitting that on his 2001 tax form he under-reported his income by more than half and that he took active steps to conceal income from the Internal Revenue Service.

As a result of Thursday's guilty pleas, Cardenas faces a statutory maximum sentence of 15 years in federal prison. The plea agreement between the government and the defendant contemplates a sentence of up to 2 1/2 years in prison. The leaders of the Midland Euro scheme were sentenced in 2005 to 11 1/4 years and 20 years in prison, see: <http://www.usdoj.gov/usao/cac/pr2005/077.html>.

This case was investigated by the Federal Bureau of Investigation, IRS-Criminal Investigation Division and the U.S. Postal Inspection Service. These agencies received the assistance of the National Futures Association, as well as the United States Trustee Program, a Justice Department component that protects the integrity of the bankruptcy system by overseeing case administration and litigating to enforce the bankruptcy laws.



The following is a press release issued by the United States Attorney's Office for the Central District of California on December 7, 2006:

Ad Executives, Attorney Sentenced to Prison for Defrauding Clients out of Over \$40 Million

Los Angeles, CA - Two former executives of an advertising placement agency have been sentenced to federal prison for stealing tens of millions of dollars from corporate clients such as Sears, Roebuck & Co. and Universal Studios, who paid their firm to place ads with broadcast media, including ABC, NBC and Warner Brothers.

Thomas Edward Rubin, the former chairman and CEO of Focus Media, Inc., a media placement agency once located in Santa Monica, was sentenced late Wednesday to 5 1/2 years in prison. Rubin, 58, of Malibu, was convicted at trial earlier this year of 25 felony counts, including conspiracy, mail fraud, wire fraud, bankruptcy fraud and money laundering.

Focus Media's chief financial officer, Thomas Patrick Sullivan, was sentenced yesterday evening to 3 1/2 years in prison. Sullivan, 65, of Westlake Village, was found guilty by the same jury that convicted Rubin of 27 felony counts.

Also yesterday, United States District Judge Gary A. Feess sentenced the third defendant in the case, attorney Geoffrey C. Mousseau, to 21 months in prison. Mousseau, 46, of Glendale, was found guilty at trial of conspiring with Rubin and Sullivan to commit bankruptcy fraud, concealing \$500,000 in assets in a bankruptcy proceeding, perjury and other bankruptcy fraud charges.

During the 4 1/2-hour sentencing hearing, Judge Feess said the actions of the defendants were "deliberate and calculated." While Focus

Media was a successful company, Rubin, whose salary of up to \$1 million a year "wasn't enough," "killed the goose that laid the golden egg." As the three defendants pursued extensive litigation in civil and bankruptcy court, according to Judge Feess, they "saw the legal process as a means to effectuate their criminal conduct, not to seek justice."

Focus Media's principal business was buying advertising time on television and radio stations for clients, including Sears and Universal. For more than a decade, Focus Media was a successful firm, but many of its clients had left the firm by 1999. In addition to the loss of its client base, Rubin had taken \$16 million out of the company in the form of shareholder loans between 1996 and 1999.

During a one-year period that began in November 1999, Rubin and Sullivan conspired to defraud Focus Media's remaining corporate clients – Sears and Universal – as well as the media outlets from which the firm ordered advertising. The fraud consisted of simply taking the money paid by its advertising clients to pay the media outlets and using it for their own private purposes. Rubin and Sullivan collected funds to pay for advertising for the last quarter of 1999, misappropriated that money and never paid the media outlets who ran the ads. Even after Sears and Universal obtained court orders prohibiting Rubin and Sullivan from misappropriating their funds, the defendants continued to do so, paying themselves, their lawyers and Focus Media employees.

During the course of the year-long scheme, Focus Media received more than \$50 million from clients, but no more than \$10 million was paid to media outlets. Approximately \$12 million out of the missing \$40 million was used to pay Rubin's personal liabilities.

On October 6, 2000, Focus Media was forced into bankruptcy by three unpaid media outlets, including ABC and NBC, which were hoping to preserve whatever assets were left in the firm. A bankruptcy court judge appointed a trustee to manage Focus Media's finances and preserve its assets, but Mousseau joined a conspiracy with Rubin and Sullivan to pay Mousseau, and other law firms, with Focus Media funds without the knowledge of the trustee. As part of the scheme, Mousseau funneled approximately \$500,000 into his attorney-client trust fund to pay his legal fees and to fund payments to other lawyers.

Judge Feess said yesterday that he would order the defendants to pay restitution to victims. The judge scheduled a hearing for January 29 to determine a specific amount of restitution.

This case was investigated jointly by the United States Postal Inspection Service and IRS Criminal Investigation Division, which received assistance from the Federal Bureau of Investigation.

Attorney Discipline

Attorney Suspended After Civil Contempt Finding

A disciplinary panel of the Bankruptcy Court for the Central District of California on August 28 suspended an Attorney from the practice of law before the bankruptcy court in the district, unless he applies for and is granted reinstatement and pays \$3,450 in court fines and fees previously ordered. The Attorney charged his clients \$3,250 for a simple chapter 7 case, failed to appear at their section 341 meeting, and then abandoned them, requiring them to obtain new counsel. Upon application by the U.S. Trustee's Woodland Hills office, the court ordered him to disgorge the fees,

found him in civil contempt, and referred his case to the disciplinary panel.

Attorney Disgorges \$2,500 Fee for Lack of Credit Counseling

On September 12 an Attorney agreed to disgorge his entire \$2,500 fee and the debtor's \$299 filing fee because his client's case was dismissed for failure to comply with the pre-bankruptcy credit counseling requirements of 11 U.S.C. § 109(h). The U.S. Trustee's Santa Ana office sought fee disgorgement under 11 U.S.C. § 329, which governs debtors' transactions with attorneys.

Debtors' Counsel Sanctioned \$8,500 for Misconduct in Two Cases

Granting motions by the U.S. Trustee's Woodland Hills office, the Bankruptcy Court ordered this Attorney to pay a total of \$8,500 in disgorged attorneys' fees and fines for his misconduct in two bankruptcy cases. The court is also referring the Attorney to its disciplinary panel. He was sanctioned \$6,000 on October 1, 2006 for helping a chapter 13 debtor transfer a fractionalized interest in real property to a defunct corporation, filing a chapter 11 case for the defunct corporation to prevent foreclosure, and then abandoning the chapter 11 debtor. Separately, the Attorney was ordered on October 12 to disgorge \$2,500 after he abandoned a client and failed to appear at court hearings even after the court ordered his appearance. On March 20, 2007, the District Court suspended him from practice before the District Court because he was suspended from the bankruptcy court.



Civil News: Selected Successes of the Office of U.S. Trustee

No Discharge for Gambler

Granting a motion by the U.S. Trustee's Los Angeles office, on June 13, 2006, the Bankruptcy Court dismissed the case of a debtor, preventing the chapter 7 discharge of \$311,497 in unsecured debt. The U.S. Trustee's investigation revealed that this debtor accumulated a substantial portion of his debt by purchasing luxury items and gambling, which he continued to do after filing bankruptcy. The debtor listed gross annual income of \$6,000 in disability payments, no employment, and \$8,000 in assets. He charged his 55 credit cards to their limits and spent substantial amounts at casinos and a casino Web site.

Waiver Prevents Chapter 7 Discharge of \$3.2 Million in Unsecured Debt

On July 7, 2006, the Bankruptcy Court approved a stipulated judgment between the U.S. Trustee's Santa Ana office and a debtor, providing for a waiver of discharge pursuant to 11 U.S.C. § 727(a)(10). The waiver prevented the discharge of \$3,208,708 in debt, most of which was related to the debtor's failed auto dealerships. The debtor's schedules showed he owned one parcel of real property but, based on a creditor's tip, the U.S. Trustee discovered he had acquired five additional parcels in the year before filing bankruptcy. When confronted with this information, the debtor first maintained the properties did not belong to him. However, the U.S. Trustee obtained bank records and loan files conclusively linking him to the properties.

Dismissal Prevents Chapter 7 Discharge of \$556,465 in Unsecured Debt

Ruling for the U.S. Trustee's Los Angeles Office, on July 12, 2006, the Bankruptcy Court dismissed with prejudice the case of a debtor under 11 U.S.C. § 707(b). The dismissal prevented the chapter 7 discharge of \$556,465 in unsecured debt. The debtor, a personal banker for a large financial institution, opened more than 20 credit accounts beginning in 2004; manipulated her credit limit on two accounts by making payments with checks that were later dishonored; purchased an expensive big screen television and sold it shortly thereafter to an unknown person for \$500; incurred almost \$25,000 of debt on one credit card in less than three months; and purchased over \$17,000 in jewelry, but disclosed only \$300 in jewelry in her bankruptcy case.

Broker's \$3.3 Million Commission Denied

On August 9, 2006, the Bankruptcy Court denied a broker's request to approve a \$3.3 million commission from the sale of real property in a chapter 11 case. The broker failed to obtain prior court approval of its employment because it had a conflict of interest. It applied for the commission as payment for work in the ordinary course of its business. Ruling for the U.S. Trustee's Woodland Hills office, the court ordered the funds to remain in the bankruptcy estate.

Bankruptcy Case Filed as Bad Faith Delaying Tactic

Ruling for the U.S. Trustee's Santa Ana Office, on August 8, 2006, the Bankruptcy Court dismissed the chapter 7 case of a debtor, with a five-year bar to refiling anywhere in the United States. The debtor, which formerly managed a nightclub, was the subject of pending state court suits arising from fights on its premises. The only two creditors listed in

the bankruptcy case were the state court litigants, there were no assets to administer for distribution to creditors, and under 11 U.S.C. § 727(a)(1) a corporate debtor is not entitled to a chapter 7 discharge. The court found the only purpose for the bankruptcy filing was the bad faith delay of the pending state court litigation.

Case Dismissed for Bad Faith

On August 15, 2006, the Bankruptcy Court granted a motion by the U.S. Trustee's Los Angeles office to dismiss with prejudice the case of a debtor for bad faith under 11 U.S.C. § 707(b)(3)(A). The debtor, who claimed to work part-time in the jewelry business, opened 11 credit accounts in 2005, misrepresenting her income on at least two credit applications. She used several accounts, opened in the months before she filed bankruptcy, to purchase about \$20,000 worth of jewelry, but she disclosed only \$200 worth of jewelry in her bankruptcy case. She also purchased furniture and an expensive television set in the months pre-petition. To pay gambling expenses, the debtor sold most of these items at a significant discount shortly after purchasing them, but she did not disclose the transfers. She also failed to cooperate with the chapter 7 trustee's request for an accounting of the jewelry.

Dismissal Prevents Chapter 7 Discharge of \$183,692 in Unsecured Debt

On August 22, 2006, the Bankruptcy Court approved an agreement dismissing the case of a debtor with a 180-day bar to refiling. The dismissal prevented the chapter 7 discharge of \$183,692 in unsecured debt. An investigation by the U.S. Trustee's Santa Ana office revealed the debtor, a card dealer at a casino, incurred over \$180,000 in credit card debt to use in gambling. The debtor's credit card statements also showed she wrote more

than \$25,000 in non-sufficient funds checks to inflate her credit limit.

Discharge of \$641,411 in Unsecured Debt is Revoked

A stipulation by a debtor agreeing to revocation of her discharge pursuant to 11 U.S.C. § 727(d)(1) was approved by the Bankruptcy Court on September 12, 2006, preventing the chapter 7 discharge of \$641,411 in unsecured debt. The debtor failed to list any corporate interests when she filed bankruptcy. After she received a bankruptcy discharge and her case was closed, the U.S. Trustee's Santa Ana office received information that the debtor had an interest in a corporation that owned a restaurant. The U.S. Trustee obtained an order reopening the case, investigated the matter, and conducted a Bankruptcy Rule 2004 examination. At the Rule 2004 exam, the debtor produced documents showing that, when she filed bankruptcy, she was a director, officer, and holder of approximately 50 percent of the shares in the restaurant corporation.

Circumstances Show Abuse Despite Absence of Abuse Presumption

The Bankruptcy Court on September 7, 2006, ruled in favor of the U.S. Trustee's Santa Ana office that the totality of circumstances of the debtors' financial situation demonstrated abuse under 11 U.S.C. § 707(b)(3), and approved the debtors' conversion to chapter 13 in lieu of dismissal. The presumption of abuse under section 707(b)(2) did not arise in the case of these debtors because the timing of their filing excluded substantial income earned by the wife, a school teacher who receives no income during the summer. The court found the ability to repay debt in chapter 13 should be assessed in considering whether the totality of circumstances demonstrate abuse. The

debtors' projected and actual gross income allowed repayment of more than 40 percent of unsecured creditors' claims over six years in chapter 13.

Agreed Dismissal Prevents Discharge of \$109,176 in Unsecured Debt

The Bankruptcy Court on September 8, 2006, dismissed the case of a debtor, preventing the chapter 7 discharge of \$109,176 in unsecured debt. Three months before filing bankruptcy, the debtor took credit card cash advances of \$52,000. Within approximately two months before filing, he paid off \$49,267 in non-dischargeable student loans, took a \$9,000 credit card cash advance, and paid off a \$6,816 secured auto loan. The debtor also failed to disclose a bank account in his bankruptcy case. The debtor agreed to the dismissal after the U.S. Trustee's Los Angeles office filed a motion to dismiss under 11 U.S.C. § 707(b).

Enjoined Bankruptcy Petition Preparer is Fined \$7,000

Ruling for the U.S. Trustee's Los Angeles Office, on September 13, 2006, the Bankruptcy Court imposed a \$7,000 fine on an enjoined petition preparer and his companies, and ordered them to refund the debtor's fee. In 2002, the court found the Preparer engaged in the unauthorized practice of law and enjoined him from preparing or assisting in preparing bankruptcy documents. In this case, the court found the Preparer violated the previous court order and intentionally failed to comply with the requirement of 11 U.S.C. § 110 to disclose his identity on the bankruptcy documents. The bankruptcy court certified the facts to the District Court with a recommendation that the court award damages under section 110(i), and ordered the Preparer to show cause why he should not be found in contempt and sanctioned for violating the earlier injunction.

Forty-Two Persons Enjoined in Foreclosure Avoidance Scheme

On September 25, 2006, the Bankruptcy Court permanently enjoined 42 individuals and entities from filing involuntary bankruptcy petitions without prior court approval. The court also fined one of the participants \$5,000 and ordered him to pay compensatory damages, subject to proof, to foreclosing creditors in six involuntary cases. The court concluded those cases were filed as part of a scheme in which individuals facing foreclosure signed promissory notes and deeds of trust in favor of the fined participant and his affiliates, who then filed fraudulent involuntary petitions. The U.S. Trustee's Woodland Hills office examined witnesses and presented evidence that the address used by a purported petitioning creditor in five cases was a mail drop box used by the fined participant.

Conversion Prevents Chapter 7 Discharge of Scheduled \$1.6 Million Claim

On October 11, 2006, joint husband and wife debtors converted their case to chapter 13, preventing the discharge of \$1,629,504 in unsecured debt. The U.S. Trustee's Santa Ana office inquired about the basis for valuing a personal injury unsecured obligation at \$1.6 million, because the potential claim against the debtors was not reduced to a money judgment. The U.S. Trustee asserted that, if the claim's liquidated value were significantly less than the scheduled value, the debtors could make a substantial payment to creditors in chapter 13.

Conversion Prevents Chapter 7 Discharge of \$590,906 in Unsecured Debt

On October 13, 2006, the Bankruptcy Court converted the case of this husband and wife to chapter 13, preventing the chapter 7 discharge of \$590,906 in unsecured debt, most

of which was tax debt. The U.S. Trustee's Santa Ana office sought denial of discharge under 11 U.S.C. § 727(a)(8) because the debtors received a prior chapter 7 discharge in a case filed within eight years of the current case. The debtors filed bankruptcy to stop the garnishment of their wages by the taxing authorities, although they are not eligible for chapter 7 relief until August 2008.

Denial Prevents Discharge of \$202,557 in Unsecured Debt

On October 26, 2006, the Bankruptcy Court denied the debtor's discharge under 11 U.S.C. § 727(a)(4) and (a)(2), preventing the chapter 7 discharge of \$202,557 in unsecured debt. The U.S. Trustee's Los Angeles office alleged, among other things, that the debtor made false oaths regarding his ownership of assets, including real property with equity of approximately \$244,000 and \$30,000 in jewelry acquired within six months before filing bankruptcy. The U.S. Trustee also alleged that the debtor concealed his ownership in real property by transferring the property to another within a year before filing. The court earlier found the real property transfer was made with actual intent to defraud, which supported the section 727(a)(2) ground for denial of discharge.

On Remand, Nature of Debt Depends on Debtor's Intent When Incurred

On November 3, 2006, the Bankruptcy Court granted a motion by the U.S. Trustee's Los Angeles office, on remand from the Court of Appeals for the Ninth Circuit, to dismiss the case of a debtor for substantial abuse under 11 U.S.C. 707(b). The U.S. Trustee's dismissal motion was previously denied, but the appeals court reversed and remanded with instructions for the bankruptcy court to consider whether the debtor's unsecured debt was primarily business or consumer, and whether she had the ability to

repay creditors. Only a case with primarily consumer debts may be dismissed for substantial abuse under section 707(b). The debtor's unsecured debt arose from a lawsuit she filed after a failed purchase of residential property. The debtor contended she changed her mind after the purchase and decided the property would be investment property rather than her personal residence. The bankruptcy court found that her intent when she incurred the debt was to purchase a home as a residence, making the debt consumer in nature. The court also found two of the debtor's deductions were discretionary, giving her a monthly surplus of at least \$1,500 and the ability to repay creditors. The ruling prevented the chapter 7 discharge of \$140,000 in unsecured debt.

Debtor With \$113,418 in Unsecured Debt Converts Case to Chapter 13

This debtor converted his case to chapter 13 before his examination at a continued section 341 meeting, preventing the chapter 7 discharge of \$113,418 in unsecured debt. He reported inconsistent earnings figures on two different bankruptcy documents, triggering an inquiry by the U.S. Trustee's Los Angeles office. At his section 341(a) meeting the debtor admitted that he earned approximately \$72,000 a year and that the earnings listed on both bankruptcy documents were inaccurate. After the U.S. Trustee requested his payroll records, the section 341 meeting was continued to allow for amendment of the bankruptcy documents and production of records.

20-Time Filer Barred from Refiling for 20 Years

On January 9, 2007, the Bankruptcy Court dismissed the chapter 13 case of a debtor with a DBA, with a 20-year bar to re-filing under any chapter without prior court permission. The U.S. Trustee's Woodland Hills office showed that the debtor and his immediate family members filed 20 bankruptcy

petitions in 19 years; the debtor filed his current case solely to forestall foreclosure; and he made numerous false statements under penalty of perjury to conceal at least nine parcels of real property, property transfers, interests in corporations, and all his prior bankruptcy filings.

Denial Prevents Chapter 7 Discharge of \$423,069 in Unsecured Debt

The Bankruptcy Court entered a default judgment on January 25, 2007, denying the discharge of this debtor, preventing the chapter 7 discharge of \$423,069 in unsecured debt. The debtor disclosed assets of less than \$15,000 although he received over \$300,000 from the sale of stock within 15 months before filing bankruptcy. He incurred \$125,000 in credit card debt in 2005 and 2006, including \$25,000 in checks made payable to himself within months before filing bankruptcy. Also within months before filing bankruptcy, he transferred for no consideration a Mercedes-Benz valued at about \$28,000. The U.S. Trustee's Santa Ana office obtained a court order to examine the debtor regarding the dissipation of assets, credit card debt, and automobile transfer, and to require him to produce documents. He did not appear for the examination, produce the documents, or defend against the U.S. Trustee's complaint to deny discharge.

Debtor Who Under-Reported Income Can't Discharge \$209,683 in Unsecured Debt

Ruling for the U.S. Trustee's Los Angeles office, on March 7, 2007, the Bankruptcy Court dismissed the case of this debtor, preventing the chapter 7 discharge of \$209,683 in unsecured debt. The debtor listed annual income of \$33,828, but the U.S. Trustee's investigation revealed he earned more than \$15,000 per month in self-employment income by operating a news stand. The court agreed

with the U.S. Trustee that the presumption of abuse arose and dismissed the case.

Debtor Converts after Hearing

Husband debtor had a joint checking account with his non-filing spouse, who also had separate checking accounts. In response to the United States Trustee's investigation, the debtor amended his Schedules B and C to disclose his wife's separate accounts as community property and exempting those accounts. The investigation also showed that, in the weeks prior to the bankruptcy filing, the debtor moved \$8,000 from the joint account to his wife's separate account and in the three days between the time Debtor hired counsel and filed his petition, over \$18,000 of community property was disbursed. About \$14,000 of that amount was disbursed to the debtor's wife on the date of filing, enough to pay **over 20%** of the amount owed to debtor's creditors. In addition, debtor withdrew \$1,900 on the date of filing to spend on his 9 year old's birthday party in Las Vegas. At the hearing on the United States Trustee's motion to dismiss under § 707(b)(3)(A), the Court indicated that it was inclined to dismiss the case, but continued the matter to allow the parties to provide additional information. Following the hearing, Debtor decided to convert his case to chapter 13, a request granted on January 26, 2007.

BPP Ordered to Pay Debtor

On October 4, 2006, a Bankruptcy Petition Preparer was ordered to pay a debtor \$2,000 in damages under 11 U.S.C. § 110(i) following the granting of the United States Trustee's motion to disgorge \$1,200.00 the Preparer received to prepare the bankruptcy documents. He only disclosed receiving \$200.00. The bankruptcy court found and certified the finding that the Preparer intentionally misrepresented the amount he received and that his conduct was fraudulent,

unfair and deceptive. The District Court adopted the bankruptcy court's findings of fact as a prerequisite to making the damage award.

Case Investigation Results in a Dismissal

An in-depth review of the debtor's credit card statements and questioning of the debtor at his 341 meeting revealed that debtor had gambling losses of \$15,000 - \$20,000 in 2005 and 2006; purchased mag wheels for \$1,800 because he "liked the look of them;" purchased an \$800 watch when he already had a watch; spent \$7,000 in 2006 on electronics which he either gave to friends or sold on eBay for no profit; gave \$10,000 to a friend as payback for small loans over time which debtor had used to gamble; and sent \$6,000 to help out a sister in the Philippines. The debtor's Statement of Financial Affairs did not disclose the gifts, gambling losses or transfers of property. Judge Carroll dismissed the case on the papers without a hearing. The Court also agreed to a one-year bar to refiling.

Dismissal Prevents Chapter 7 Discharge of Almost \$4 Million in Unsecured Debt

The Bankruptcy Court on March 15, 2007, dismissed with prejudice the case of a debtor, preventing the chapter 7 discharge of \$3,869,486 in unsecured debt. The U.S. Trustee's Riverside office investigated the disappearance of more than \$3 million in funds the debtor received from another bankruptcy debtor, an unlicensed securities broker. This debtor failed to produce documents, appear for section 341 meetings, or explain the disposition of the \$3 million and other assets. The U.S. Trustee obtained a court order directing him to produce documents and to appear at his section 341 meeting, but he failed to comply. The U.S. Trustee then sought dismissal of his case.

L.A. Hires New Trial Attorney

by Assistant U.S. Trustee Jill Sturtevant

Trial Attorney Queenie K. Ng started with the Los Angeles Field Office on January 8th, 2007. She kicked off her first week with the U.S. Trustee's Office by attending a week-long training seminar on civil litigation techniques at the Justice Department's National Advocacy Center in Columbia, South Carolina, and since then has spent her share of time in the chapter 7 341(a) hearing rooms and the Roybal bankruptcy courtrooms.

Ms. Ng comes to the OUST from the Riverside, CA, law firm of Best, Best & Krieger, L.L.P., where she maintained a bankruptcy law and motion practice, representing primarily creditors and bankruptcy trustees; her work included the prosecution and defense of avoidance and non-dischargeability actions. She attended the University of California, Berkeley, as an undergraduate, accepting her Bachelor of Arts in two majors, Economics and Political Economy of Industrial Societies, in May of 1999. She then attended Southwestern University School of Law in Los Angeles where she was the Lead Articles Editor for the Journal of Law and Trade in the Americas during her third year, receiving her Juris Doctorate in May 2002. While in law school, Ms. Ng clerked as an extern for the Honorable Judge John E. Ryan of the Santa Ana Division Bankruptcy Court during her third year. Upon graduation, she worked full time as Law Clerk to Judge Ryan at the Ninth Circuit Court of Appeals, Bankruptcy Appellate Panel, from September 2002 through December 2003. It was after this clerkship that she went to work at Best, Best & Krieger.

Ms. Ng is a great addition to the LA Field Office's staff; she has been assigned a full caseload of chapters 7 and 13 work, and we are very pleased to welcome her aboard.

Reception for EOUST Director Cliff White

On November 2, 2006, the UST Program's Director Cliff White paid a visit to the Los Angeles Office. Director White spoke with the office staff, including presenting an award to Sandy Klein, our Regional Bankruptcy Fraud Coordinator. After that, Director White met with panel and standing trustees.



(L-R) AUSTs Cadigan, Mills, Sturtevant, Director White, UST Anderson, AUSTs Andersen and Braun

Marta Retires After 37 Years!!

The Office of the U. S. Trustee in Los Angeles said goodbye to long time employee Marta Montella-Bates, who retired with 37 years of federal service. Marta was a paralegal specialist in the trustee oversight area. Many of the Panel Trustees, past and present, have worked with Marta during the case closing process. We will certainly miss Marta but wish nothing but the best in this next phase of her life.



Regional Criminal Fraud Coordinator Sandy Klein accepts an award for superior performance

